IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9201 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BABUBHARTHI GOVINDBHARTHI GOSAI

Versus

DIVISIONAL CONTROLLER G S R T C

Appearance:

Mr.Upadhyaya for MR MUKESH H RATHOD for Petitioner

MR KS JHAVERI for Respondent No. 1

Mr.Digant P. Joshi, AGP for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 24/03/2000

ORAL JUDGEMENT :

Rule. Mr.Jhaveri for the respondent Corporation and Mr.Digant Joshi, learned AGP waive service of the rule. With the consent of the parties, the matter is taken up for final disposal.

2. This petition is filed by the petitioner who is working as a Conductor in Rajkot Division of the respondent Corporation. The petitioner had filed Recovery Application before the Labour Court, Rajkot. Said Recovery Application was allowed by the Labour Court with the direction to respondent no.2 to pay the amount to the petitioner. As the respondent Corporation did not pay that amount the petitioner was constrained to approach the Labour Court once again with a request to issue recovery certificate. The Labour Court then issued a recovery certificate dated 24.1.1997 for Rs.40,150/- as pointed out by Mr.Upadhyaya. The respondent Corporation has neither challenged the order of the Labour Court nor complied with the same. This petition, therefore, is required to be filed. Mr.Jhaveri, learned counsel for the respondent Corporation has fairly stated that the respondent Corporation has not challenged the order of the Labour Court. Therefore, he is not able to defend the action of the respondent Corporation of not making payment.

3. Looking to the facts and circumstances of the case and looking the recovery certificate issued by the Labour Court and also the fact that Mr.Jhaveri for the respondent Corporation is not able to point out anything to show that the order of the Labour Court is challenged before any higher forum, the petition is allowed. The respondent Corporation is directed to pay the amount within 30 (thirty) days, but in no case later than 1.5.2000. Rule is made absolute accordingly with no order as to costs.

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